

E-FILED on 8/24/05

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

THOMAS FALLON, an Individual, ROBERT  
PUETTE, an Individual, CARL REDFIELD, an  
Individual, RICK TIMMINS, an Individual, on  
behalf of each, individually, and on behalf of the  
general public,

Plaintiffs,

v.

LOCKE, LIDDELL & SAPP, LLP, a Texas  
limited professional partnership, and DOES 1  
through 100,

Defendants.

Case No. C-04-03210 RMW

ORDER SETTING BRIEFING SCHEDULE  
ON ERNST & YOUNG LLP'S OBJECTION  
TO THE MAGISTRATE JUDGE'S AUGUST 4,  
2005 ORDER

[Re Docket No. 51]

Non-party Ernst & Young LLP ("E&Y") has filed an objection to the Magistrate Judge's August 4, 2005 order denying E&Y's motion for a protective order and granting E&Y's motion to modify a subpoena duces tecum and associated deposition subpoena issued by plaintiffs Robert Puette, Carl Redfield, Tom Fallon, and Rick Timmins ("plaintiffs"). E&Y objects that the Magistrate Judge erred as a matter of law by permitting third party discovery by the plaintiffs in light of an arbitration agreement between the parties.

The court sets the following briefing schedule on E&Y's objection. Plaintiffs may file an opposition to E&Y's objection by September 6, 2005. Such opposition shall be no longer than 15 pages and address E&Y's alternative request that plaintiffs bear E&Y's costs for the requested discovery. Subject to the same 15 page

1 limit, E&Y may file any reply by September 13, 2005. The matter will be submitted on the papers without oral  
2 argument unless the parties are otherwise notified by the court.

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4  
5 DATED: 8/23/05

/s/ Ronald M. Whyte  
RONALD M. WHYTE  
United States District Judge

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9 Counsel are responsible for distributing copies of this document to co-counsel that have not registered for  
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12 **Dated:** 8/24/05

/s/ MAG  
13 **Chambers of Judge Whyte**